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FRA-2001-11239-8

**U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
WASHINGTON, D. C.**

**FRA-LOCOMOTIVE ENGINEER CERTIFICATION CASE
G. K. Sumner, HEARING PETITIONER
DOT DOCKET NO. FRA-2001-11239
FRA DOCKET NO. 2000-79**

**UNION PACIFIC RAILROAD COMPANY
And
FEDERAL RAILROAD ADMINISTRATION
JOINT RESPONSE TO HEARING PETITIONER'S
STATEMENT OF ISSUES AND CLAIM FOR RELIEF**

OFFICE OF CHIEF COUNSEL

2002 OCT -8 PM 12:05

FEDERAL RAILROAD
ADMINISTRATION

UNION PACIFIC RAILROAD COMPANY ("UP"), and the FEDERAL RAILROAD ADMINISTRATION, ("FRA") pursuant to Order No. 1 of Hearing Officer G. Joseph King, jointly responds to hearing Petitioner's Statement of Issues and Claim for Relief as follows:

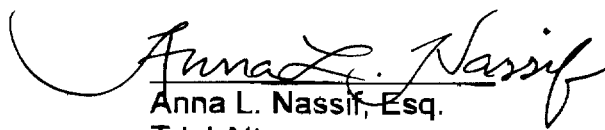
1. **Issues of Law** – Respondents contend that the following issue may be determined as a matter of law: Operating a locomotive so that it occupies a main track without proper authority is a violation of 49 C.F.R. 240.117(e)(4).

2. **Issues of Fact** – Respondents concur that issues are properly stated. It will be necessary for Petitioner to produce evidence to support its Issues and the factual allegations made in them.

3. **Relief Sought**- Respondents concur that if Petitioner prevails that the relief sought is appropriate.

Respectfully Submitted


W. Scott Hinckley
General Director
Union Pacific Railroad


Anna L. Nassif, Esq.
Trial Attorney
U.S. Dept. of Transportation
Federal Railroad Administration

Dated: October 8, 2002

CERTIFICATE OF SERVICE
DOT DKT.# FRA 2001-11239 (Sumner/UP)
(FRA Docket No. EQAL 00-79)

The undersigned hereby certifies that the foregoing document, UNION PACIFIC RAILROAD COMPANY AND FEDERAL RAILROAD ADMINISTRATION JOINT RESPONSE TO HEARING PETITIONER'S STATEMENT OF ISSUES AND CLAIM FOR RELIEF, has been served to all parties named below via certified U.S. mail, return receipt requested:

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10/8/02
Date